

SENATE BILL NO. 317
INTRODUCED BY M. WHEAT

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING FINES FOR FIRST THROUGH THIRD OFFENSE DRIVING WITH EXCESSIVE ALCOHOL CONCENTRATION AND DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; PROVIDING THAT 25 PERCENT OF FINES MUST BE USED TO HELP FUND TREATMENT AND EDUCATION PROGRAMS; AND AMENDING SECTIONS 3-10-601, 61-8-714, AND 61-8-722, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-10-601, MCA, is amended to read:

"3-10-601. Collection and disposition of fines, penalties, forfeitures, and fees. (1) Each justice's court shall collect the fees prescribed by law for justices' courts and shall pay them into the county treasury of the county in which the justice of the peace holds office, on or before the 10th day of each month, to be credited to the general fund of the county.

(2) Except as provided in subsection (4), all fines, penalties, and forfeitures that are required to be imposed, collected, or paid in a justice's court must, for each calendar month, be paid by the justice's court on or before the 5th day of the following month to the treasurer of the county in which the justice's court is situated, except that they may be distributed as provided in 44-12-206 if imposed, collected, or paid for a violation of Title 45, chapter 9 or 10.

(3) Except as provided in 46-18-236(7), 61-8-714(4), and 61-8-722(4), the county treasurer shall, as provided in 15-1-504, distribute money received under subsection (2) as follows:

(a) 50% to the department of revenue for deposit in the state general fund; and

(b) 50% to the county general fund.

(4) (a) The justice's court may contract with a private person or entity for the collection of any final judgment that requires a payment to the justice's court.

(b) In the event that a private person or entity is retained to collect a judgment, the justice's court may assign the judgment to the private person or entity and the private person or entity may, as an assignee, institute a suit or other lawful collection procedure and other postjudgment remedies in its own name.

(c) The justice's court may pay the private person or entity a reasonable fee for collecting the judgment."

Section 2. Section 61-8-714, MCA, is amended to read:

"61-8-714. Penalty for driving under influence of alcohol or drugs -- first through third offense.

(1) A person convicted of a violation of 61-8-401 shall be punished by imprisonment for not less than 24 consecutive hours or more than 6 months and shall be punished by a fine of not less than ~~\$400~~ \$250 or more than \$500. The initial 24 hours of the imprisonment term must be served in the county jail and may not be served under home arrest. The mandatory imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial 24 hours of the imprisonment term, notwithstanding 46-18-201(2), the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the defendant.

(2) On a second conviction, the person shall be punished by a fine of not less than ~~\$300~~ \$500 or more than ~~\$500~~ \$1,000 and by imprisonment for not less than 7 days or more than 6 months. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. Three days of the imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial 3 days of the imprisonment term, notwithstanding 46-18-201(2), the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the defendant.

(3) On the third conviction, the person shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than ~~\$500~~ \$1,000 or more than ~~\$1,000~~ \$2,000. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended. The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the defendant.

(4) Twenty-five percent of the fines collected under this section must be deposited in a state special revenue account to be used by the department of public health and human services to fund residential alcohol treatment programs under 61-8-731(2) and chemical dependency assessment and chemical dependency education courses under 61-8-732."

Section 3. Section 61-8-722, MCA, is amended to read:

"61-8-722. Penalty for driving with excessive alcohol concentration -- first through third offense.

(1) A person convicted of a violation of 61-8-406 shall be punished by imprisonment for not more than 10 days and shall be punished by a fine of not less than ~~\$100~~ \$250 or more than \$500.

(2) On a second conviction of a violation of 61-8-406, the person shall be punished by imprisonment for not less than 48 consecutive hours, to be served in the county jail and not on home arrest, or more than 30 days and by a fine of not less than ~~\$300~~ \$500 or more than ~~\$500~~ \$1,000.

(3) On a third conviction of a violation of 61-8-406, the person shall be punished by imprisonment for not less than 48 consecutive hours, to be served in the county jail and not on home arrest, or more than 6 months and by a fine of not less than ~~\$500~~ \$1,000 or more than ~~\$1,000~~ \$2,000.

(4) Twenty-five percent of the fines collected under this section must be deposited in a state special revenue account to be used by the department of public health and human services to fund residential alcohol treatment programs under 61-8-731(2) and chemical dependency assessment and chemical dependency education courses under 61-8-732."

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